

ARTICLE XX
STANDARDS FOR SPECIFIC USES

175-109. Compliance Required.

This article establishes performance standards for specific uses. These standards must be met for all activities involving the specified uses.

A. ***Accessory Buildings for Multi-unit and Nonresidential Use.*** The following standards apply to buildings that are accessory to multi-unit and nonresidential use:

1. There is a limit of 2 accessory buildings per lot (not including garages), except that additional accessory buildings may be approved by conditional use.
2. The building shall be used only in association with the principal use on the site.
3. The building shall be located to the side or rear of the principal building, except by conditional use.
4. The building shall be separated from any principal residential building on an abutting lot by not less than 20 feet.

B. ***Accessory Buildings for Single-Family Use.*** The following standards apply to buildings that are accessory to single-family use, not including garages and any additional connected space, agricultural buildings, and accessory apartments.

1. There is a limit of 2 accessory buildings per lot.
2. The maximum floor area of the building shall be 200 square feet.
3. The highest point on the building shall be not more than 14 feet above grade.
4. The building shall not be supplied with water, sewerage, or heat unless approved by special exception.
5. The building shall be used only for the personal use of the occupants of the premises on which it is located, and not for any commercial use except for an approved home occupation.
6. The building shall not be located forward of the front façade of the house.
7. The building shall be set back at least 10 feet from any property line.
8. The building shall be separated from any principal residential building on an abutting lot by not less than 20 feet.

C. ***Accessory Dwelling Units and Accessory Apartments.*** Accessory dwelling units and accessory apartments shall conform to the following standards:

1. Only 1 accessory dwelling unit or 1 accessory apartment shall be located on a lot with a single-family residence. The location of an accessory dwelling unit and an accessory apartment in conjunction with 1 single-family residence shall not be permitted.
2. An accessory dwelling unit shall contain a minimum of 300 and a maximum of 850 square feet of floor space.
3. An accessory apartment shall contain a minimum of 300 and a maximum of 850 square feet of floor space.
4. In zoning districts where no more than 3 unrelated persons may occupy a dwelling unit (as specified in subsection 175-56 General Dimensional Standards), there shall be no more than 3 unrelated occupants in total for the single-family dwelling and the accessory dwelling unit combined or for the single-family dwelling and the accessory apartment combined.
5. The location and design of the accessory dwelling unit or accessory apartment shall maintain the single-family character and appearance of the premises.
6. An interior door shall be provided between the single-family dwelling and the accessory dwelling unit, but the door may be locked or not at the option of the property owner.
7. One parking space shall be provided for the accessory dwelling unit or accessory apartment, in addition to parking required for the single-family dwelling. The parking space may be situated within a driveway along with other vehicles provided it is readily accessed.
8. The property owner shall make adequate provisions for water supply and sewage disposal for the accessory dwelling unit or accessory apartment in accordance with RSA 485-A:38. However, systems for the accessory dwelling unit or accessory apartment separate from those serving the single-family dwelling are not required.
9. There are no additional requirements for lot size, frontage, space limitations, or other dimensional controls for an accessory dwelling unit or accessory apartment beyond what would be required for a single-family residence without an accessory dwelling unit or accessory apartment.

D. ***Child Care Center.*** A child care center shall conform to the following standards:

1. Any outside play area shall be fenced and shall not be located within required yard setbacks.
2. Provisions shall be made for the safe drop-off and pick-up of children such that this activity will not create a traffic hazard, obstruct vehicular or pedestrian traffic, or adversely impact adjacent properties including those located on the other side of the street.
3. A child care center shall not be located on a minor street that is residential in character unless the Zoning Administrator finds that such a use will not create traffic in excess of

what would be typically found on a residential street based upon a traffic study prepared by the applicant.

- E. ***Child Care Home.*** For all child care homes, provisions shall be made for the safe drop-off and pick-up of children such that this activity will not create a traffic hazard, obstruct vehicular or pedestrian traffic, or adversely impact adjacent properties including those located on the other side of the street.

In addition, child care homes licensed to accommodate more than 6 children at any time shall conform to the following standards:

1. Any outside play area shall be fenced and shall not be located within required yard setbacks.
2. The child care home shall not be located on a minor street that is residential in character unless the Zoning Administrator finds that such a use will not create traffic in excess of what would be typically found on a residential street based upon a traffic study prepared by the applicant.

- F. ***Home Occupation.*** The criteria for home occupations are given in the Definitions article. Any person seeking to establish a home occupation shall submit an application to the Zoning Administrator who shall review the application for conformance with the criteria for home occupations. The Zoning Administrator may specify adding parking space(s) to accommodate the home occupation at her/his reasonable discretion.

- G. ***Hotels and Motels.*** A stay in a hotel or motel is restricted to less than thirty days (as defined in Article II – Definitions). However, a guest or guests may stay in a hotel or motel for thirty days or longer if allowed by special exception. The maximum that may be allowed by a special exception is a stay of 60 consecutive days and 90 days in any 6 month period.

- H. ***Light Manufacturing.*** Light Manufacturing shall conform to the following standards:

1. All manufacturing, processing, or fabrication shall occur within a building or fully enclosed structure.
2. Manufacturing activities shall be limited to the processing or fabrication of materials which does not involve basic processes such as the mechanical or chemical transformation of materials or substances into new products unless such basic processes do not result in any noise, odors, or vibrations that are perceptible at the property line of the parcel on which the use is located.
3. Assembly, processing, and fabrication activities not involving basic processes shall be conducted so that they will not result in objectionable noise, glare, vibration, odor, or electrical interference that will disturb or endanger adjacent properties.
4. All outside storage of raw materials, products, and wastes shall occur within fenced and screened areas. Storage areas shall be buffered from view from public streets and adjacent residential uses through a combination of fencing, landscaping, and/or berms.

5. Truck loading and material handling areas shall be located to the side or rear of the building. No overhead doors or other service or material delivery facilities shall be allowed on the side of the building facing a public street unless the Planning Board determines that there is no practical alternative.

I. ***Manufactured Housing.*** A manufactured housing unit shall conform to the following construction and siting standards in addition to any state requirements:

1. It was constructed after June 15, 1975, and certified as meeting the mobile home construction and safety standards of the Department of Housing and Urban Development.
2. It is at least 20 feet wide at the narrowest point.
3. The roof pitch shall be not less than a 2-foot rise for each 12 feet of horizontal run [2:12], and the roof shall have minimum 6-inch eaves or eaves and gutter.
4. It has roofing materials which are generally acceptable for site-built housing. Any roofing material may be used, provided that it has the appearance of a nonmetallic shingle, shake or tile roof.
5. It has siding material which has the appearance of wood, masonry or horizontal metal siding. Reflection from horizontal metal siding shall be not greater than that from siding coated with white gloss enamel.
6. It has a perimeter skirting that resembles a conventional house foundation and is constructed of brick, concrete, concrete block or pressure-treated wood.
7. It is placed on a permanent foundation approved by the Code Enforcement Officer.
8. The hitch and tongue of the manufactured home shall be removed.

J. ***Porkchop Subdivision.*** A porkchop subdivision is allowed in the RC and R Districts. The purpose of a porkchop subdivision is to allow limited subdivision of relatively large lots where there is significant back land but not sufficient street frontage to provide the minimum required frontage for each new lot. Developers of residential subdivisions of 2 or 3 lots in the RC and R Districts on existing town roads as of the date this chapter is enacted that are not conservation subdivisions, may elect to follow the requirements for porkchop subdivisions in Table 4-1, provided that at least 2 of the lots are entered from a common driveway whose maintenance is guaranteed in the deeds to the lots concerned. A common driveway to a porkchop subdivision will only serve a maximum of 3 lots. Adjacent porkchop subdivisions will not share a common driveway. Each porkchop subdivision will have a common driveway independent from any other subdivision. Other than the possibility that the rear lot (or lots) may take on somewhat of a porkchop shape, the lots shall not be unduly gerrymandered to take advantage of this section.

Table 4-1. Requirements for Optional Porkchop Subdivisions

Porkchop subdivision lots	Minimum area (square feet)	Minimum frontage area (feet)
Each lot	80,000	50
Average, all lots	120,000	125*

*NOTE: The Planning Board is empowered to reduce the average frontage to not less than 100 feet in the case of a porkchop subdivision of a nonconforming lot into not more than 3 lots, provided that the requirement for minimum area is met.

K. ***Reuse of an Existing Agricultural Building.*** Any reuse of an agricultural building for a use other than an agricultural use shall conform to the following standards:

1. Any residential reuse shall conform to the use and dimensional requirements for residential uses for the zone in which it is located.
2. Any nonresidential reuse shall conform to the following standards:
 - a. There shall be no retail sale of goods not otherwise allowed in the zone.
 - b. The nonresidential activity shall occur completely within the agricultural building and there shall be no outside storage of material, equipment, or products.
 - c. The positive aspects of the architectural character of the building shall be maintained.
 - d. Exterior changes to the building shall be limited to minor changes or minor additions needed to provide access or comply with code requirements or which the Planning Board determines will enhance the building's appearance and/or function without adversely impacting its architectural character.

L. ***Reuse of an Older Single-Family Home for a Low Impact Nonresidential Use.*** Any reuse of an older single-family home or residence shall conform to the following standards:

1. The nonresidential activity shall occur completely within the building and there shall be no outside storage of material, equipment, or products. The nonresidential activity may occupy all of the building or a portion of the building together with a single-family residential use.
2. The architectural character of the building shall be maintained.
3. Exterior changes to the building shall be limited to minor changes or minor additions needed to provide access or comply with code requirements or which the Planning Board determines will enhance the building's appearance and/or function without adversely impacting its architectural character.
4. The volume of traffic generated by the use shall not be more than twice the volume resulting from a typical single-family residence.

5. Any off-street parking created to serve the reuse shall be located to the side or rear of the building and shall be buffered from any abutting residential use by a landscaped buffer at least 20 feet in width that meets the requirements of Article XXII.
 6. No noise, odors, dust, vibrations, or similar factors shall be produced in amounts greater than those typically resulting from a typical single-family residence.
- M. ***Short-term rental.*** The following terms and conditions apply to a short-term rental.
1. A short-term rental may not be established until a permit to operate a short-term rental has been issued by the Zoning Administrator. The property owner shall submit an application to operate a short-term rental to the Zoning Administrator. The proposal shall be reviewed for compliance with all Building, Fire, and Life Safety Codes. Site plan review is not required for a short-term rental.
 2. Special Exceptions. In those districts where a short-term rental is allowed by special exception, the property owner shall obtain a special exception prior to issuance of a permit to operate a short-term rental. The following specific requirements apply to special exceptions for short-term rentals:
 - a. ZBA Hearing. For notification purposes, abutting properties shall include those lots within 300 feet of the subject property.
 - b. Other Conditions. The Zoning Board of Adjustment may set additional conditions on the special exception based upon potential impact of the proposal to the neighborhood.
 3. The site where the short-term rental is located must be the property owner's primary residence.
 4. The property owner or a member of the property owner's family must be on the premises overnight each night while the property is rented.
 5. Those areas of the premises open to use by lodgers remain subject to periodic safety inspections per state law.
 6. No recreational vehicle, travel trailer, tent, or other temporary shelter may be used by the renter(s) on the premises in conjunction with the short-term rental.
 7. Signage is restricted to the following:
 - a. One non-illuminated sign not exceeding 2 square feet. If ground mounted the sign must be set back at least 10 feet from all lot lines and be no taller than 3 feet. If mounted on the house no part of the sign may be higher than the top of the first floor windows.
 - b. Non-advertising auxiliary signs (such as "No Parking Here" and "Entrance to the Right") that are non-illuminated and do not exceed 1 square foot for each sign.

N. **Solar Energy Systems.** Solar energy systems shall be allowed in conformance with the following standards and procedures (See Definitions for solar energy systems).

1. **Authority.** This ordinance is adopted pursuant to RSAs 362-F, 374-G, 477:49, 672:1 III-a, and 674:17 (I)(j).
2. **Purpose.** The purpose of this ordinance is to:
 - a. Encourage the implementation of solar energy systems in accordance with the recommendations stated in the Energy Chapter of the 2015 Durham Master Plan;
 - b. promote environmental sustainability while respecting the rural character and scenic landscape of Durham and the use of productive agricultural lands; and
 - c. comply with and support the State of New Hampshire's goal of developing clean, safe, renewable energy resources as provided for in the statutes referred to in 175-109. N.1 above.
3. **Applicability.** Solar installations that are designed to generate less than 1 kilowatt and are not connected to the electrical grid are not covered by this ordinance, though they may be subject to other regulations.
4. **Single-Family or Duplex Residential Solar Energy System – accessory use.** The following provisions apply to single-family or duplex residential solar energy systems.
 - a. **Basic requirements.** This accessory use serves single-family or duplex residences situated on the same lot. A Freestanding Solar Energy System may have a nameplate capacity rating of 30 kW or occupy a ground area of up to 1,800 square feet.
 - b. **Special Exception.** A proposed Single-Family or Duplex Residential Solar Energy System that does not conform with 175.109.N.4. c. below may be approved by a special exception.
 - c. **Placement –** A Freestanding Solar Energy System shall be placed in a location meeting one or more of the following criteria.
 - (1) The system is placed where it is largely not visible from a public road abutting the property, as is determined by the Code Enforcement Officer, due to topography or existing structures or vegetation that are expected to be maintained until the Solar Energy System is decommissioned.
 - (2) The system is placed 150 feet or more from any portion of a public road.

- (3) When a system is equal to or less than 12 feet in height and does not meet the requirements of 175-109.N.4.b. (1) or (2) above, the system shall be placed behind the fully enclosed part of the residence closest to the public road. Systems in the Rural and Rural Coastal Zones must also comply with 175-109.N.4.b (5) below.
 - (4) When a system is greater than 12 feet in height and does not meet the requirements of 175-109.N.4.b. (1) or (2) above, the system shall be placed behind the fully enclosed part of the residence that is furthest from the public road. Systems in the Rural and Rural Coastal Zones must also comply with 175-109. N.4.b (5) below.
 - (5) Systems in the Rural and Rural Coastal Zones should meet the placement criteria 175-109.N.4.b (1) or (2) above. The system may be placed in accordance with 175-109.N.4.b (3) or (4) above but shall not extend more than 40' beyond the side of the residence.
- d. Carport Mounted Solar Energy System – A solar energy system may be mounted on a carport when the carport is attached to the single-family or duplex residence and the carport is located beyond the fully enclosed part of the residence closest to the public road.

5. Multi-unit or Nonresidential Solar Energy System – accessory use.

The following standards and procedures apply to freestanding multi-unit residential or non-residential systems.

- a. Site plan review and approval by the Planning Board is required.
- b. A proposed system that does not conform with 175-109.N.5. c. below, may be approved by a special exception.
- c. No part of the system may be placed closer to the front property line (and side property line in the case of a corner lot) than the part of the fully enclosed principal building closest to the street. In addition, for a system that exceeds 12 feet in height (any part of the system), no part of the system may be placed closer to the front property line (and side property line in the case of a corner lot) than the fully enclosed part of the principal building furthest from the street.
- d. The Solar Energy System shall be sized to provide up to the projected annual energy needs of the multi-unit or nonresidential use including approved ancillary uses.
- e. Where the nonresidential use is Commercial Farm, the system may be sized to generate up to 100 kW more than the projected annual energy

needs of the Principal Use, and the Solar Energy System may function as a Small Utility-Scale Solar Energy System or Small Group Net Metering Host.

6. **Small and Large Utility-Scale Solar Energy System – principal use.**
The following standards and procedures apply to freestanding Utility-Scale Solar Energy Systems.
 - a. Site plan review and approval is required.
 - b. Freestanding systems shall be set back at least 100 feet from the front property line. The system shall be buffered from single-family homes, neighboring roads and abutting properties in accordance with the Site Plan Regulations and as reasonably determined by the Planning Board.
7. **Small and Large Group Net Metering Host – principal use.**
The following standards and procedures apply to a freestanding Group Net Metering Host as a principal use but not to a Single-family or duplex residential solar energy system functioning as group net metering host.
 - a. Site plan review and approval is required.
 - b. Freestanding systems shall be set back at least 100 feet from the front property line. The system shall be buffered from single-family homes, neighboring roads and abutting properties in accordance with the Site Plan Regulations and as reasonably determined by the Planning Board.
8. **Solar PV Parking Canopy – accessory use.**
 - a. A Site plan review and approval is required.
 - b. The parking must be an approved use specified in Section 175-53 “Table of Uses”.
 - c. The height of the canopy, including panels, above the ground shall not exceed the height limit permitted in the zone and be no greater than 35 feet.
 - d. A Solar PV Parking Canopy may function as a Multi-unit or Non-Residential Solar Energy System, a Utility-Scale Solar Energy System (Large or Small) or a Group Net Metering Host (Large or Small).
9. **Other provisions.** The following additional provisions apply to all solar energy systems.
 - a. Building permit. A building permit is required for the installation of any system.

- b. Setbacks. Every part of a freestanding system, including components elevated above the ground, components that track and move, and necessary accessory equipment that is ground mounted, shall conform to required setbacks for the zoning district.
- c. Maximum height. For building-mounted systems, the maximum height for any part of the system is 10 feet above the ridge of the roof of the primary building or 10 feet above the highest part of the roof of the primary building where there is no ridge. The maximum height for freestanding systems is 25 feet (excludes Solar PV Parking Canopy).

A freestanding system exceeding 25 feet in height may be approved by special exception provided all of the following conditions are met:

- i. The system does not exceed 35 feet in height;
 - ii. The system is located in the Rural, Residence Coastal, Office Research – Route 108, Mixed Used and Office Research, Office Research Light Industry, or Durham Business Park district;
and
 - iii. All other pertinent provisions for solar energy systems apply.
- d. Impervious surface. The maximum impervious surface ratio in the Table of Dimensions applies to what is on the ground under the solar panels. The solar panels themselves do not count toward impervious surface.
- e. Submission requirements. Applicants for projects that require a site plan shall submit all pertinent information, including specifications for the equipment, to the Planning Board, as specified in the Site Plan Regulations. Applicants for a special exception shall submit plans showing all pertinent aspects of the project and all elements specified by the Zoning Board of Adjustment.
- f. Decommissioning. Applicants for a Solar Energy System that requires a Site Plan review shall submit a plan as part of that review for the removal of the structures and reclamation of the site when the system is no longer in use. It is expected that the decommissioning plan will specify the removal and disposal of photovoltaic panels using a means allowed by applicable state and federal regulations at the time of decommissioning.
- g. Historic District. Additional procedures and standards for proposed solar energy systems located within the Durham Historic District are contained in Article XVII of this ordinance.
- h. Site Plan Review is not required for any building mounted system.

- O. ***Temporary Sawmill.*** A temporary sawmill shall conform to the following standards:
1. The sawmill shall not be located or used on a property for more than 30 days in any calendar year.
 2. The sawmill shall be not located in any required front, side, or rear yard setback and shall be at least 200 feet from any residence on an abutting lot.
 3. Processed materials shall not be stored on the site for more than 2 weeks.
 4. Upon the cessation of processing activity, the location of the sawmill, storage and processing areas, and vehicle areas shall be re-graded and seeded to restore the original condition of the site.